

**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MASSACHUSETTS  
EASTERN DIVISION**

In re:	)	
	)	
	)	
JAMES F. MCAULIFFE,	)	CHAPTER 7
	)	CASE NO. 16-11089-MSH
Debtor.	)	
	)	
	)	
JOHN O. DESMOND, CHAPTER 7	)	
TRUSTEE FOR THE ESTATE OF	)	
JAMES F. MCAULIFFE	)	
	)	
Plaintiff,	)	ADVERSARY PROCEEDING
	)	
v.	)	NO. 16-01164-MSH
	)	
ROBIN S. GILBERT,	)	
	)	
Defendant.	)	
	)	

**JOINT MOTION TO EXTEND SUMMARY JUDGMENT DEADLINE**

The plaintiff John O. Desmond, the duly appointed Chapter 7 Trustee (the “Trustee”) for the bankruptcy estate of James F. McAuliffe. (the “Debtor”) and the Defendant, Robin S. Gilbert (the “Defendant”) (collectively the “Parties”) hereby move to amend the Parties’ Court-approved Discovery Plan in this case for the purpose of extending the deadline for the Parties to file any summary judgment motions by 30 days.

In support of this Motion, the Parties state as follows:

1. On March 28, 2016, the Debtor filed a voluntary petition pursuant to Chapter 7 of the Bankruptcy Code.
2. On March 29, 2016, the Trustee was appointed as the Chapter 7 trustee of the Debtor’s bankruptcy estate.

3. On September 15, 2016, the Trustee filed an adversary complaint against Robin S. Gilbert pursuant to Section 363(h) of the Bankruptcy Code and Rule 7001(3) of the Federal Rules of Bankruptcy Procedure (the “Adversary Complaint”).

4. On November 30, 2016, the parties filed a Joint Motion to Approve Extension of Discovery Deadline and Proposed Discovery Plan and Rule 26(f) Certification (the “Discovery Plan”).

5. On December 1, 2016, the Court allowed the Joint Motion to Approve Extension of Discovery Deadline and Discovery Plan.

6. On February 15, 2017, the Parties filed a Joint Motion to Amend the Discovery Plan [Docket No. 22], whereby the Parties sought to extend all deadlines set forth in the Discovery Plan by 60 days.

7. On February 16, 2017, the Court allowed the Parties Joint Motion to Amend the Discovery Plan.

8. On April 20, 2017, the Parties filed a Second Joint Motion to Amend the Discovery Plan.

9. On April 20, 2017 the Court allowed the Second Joint Motion to Amend the Discovery Plan.

10. Since filing the Second Joint Motion to Amend the Discovery Plan the Parties continue to attempt to resolve the claims asserted in the Adversary Complaint via settlement discussions. The Parties have additionally completed fact discovery and Plaintiff provided its expert real estate appraisal report with the Defendant on June 5, 2017 in accordance with the Discovery Plan.

11. The Parties are currently engaged in settlement negotiations and would prefer to devote time and effort toward settlement negotiations rather than a motion for summary judgment. Therefore, the Parties are seeking to extend the current deadline to file any summary judgment motions by an additional 30 days to provide the Parties with additional time to continue settlement discussions without the necessity of filing a summary judgment motion.

12. Therefore the Parties propose amending the current deadline as follows:

<b>Deadline</b>	<b>Current Discovery Plan Deadlines</b>	<b>Proposed Deadlines</b>
Summary Judgment	June 20, 2017	July 20, 2017

13. The Parties state that the requested changes to the Discovery Plan will not prejudice any party, nor will it result in any added burden on the Court.

WHEREFORE, John O. Desmond, the Chapter 7 Trustee, and Robin S. Gilbert respectfully request that this honorable Court enter an order (i) allowing the Joint Motion to Extend Summary Judgment Deadline to extend the summary judgment deadline as set forth in the Discovery Plan to July 20, 2017; and (ii) granting any such further relief as is just and proper.

Respectfully submitted,

**JOHN O. DESMOND, CHAPTER 7 TRUSTEE  
OF THE ESTATE OF JAMES. F. MCAULIFFE**

**By his attorneys,**

*/s/ Anthony R. Leone*

---

Thomas S. Vangel - BBO #552386  
Anthony R. Leone - BBO #681760  
Murtha Cullina LLP  
99 High Street  
Boston, MA 02110-2320  
Telephone: 617.457.4000  
Facsimile: 617.482.3868  
[tvangel@murthalaw.com](mailto:tvangel@murthalaw.com)  
[aleone@murthalaw.com](mailto:aleone@murthalaw.com)

Dated: June 9, 2017

**ROBIN S. GILBERT**

**By her attorney,**

*/s/ Gary W. Cruickshank*

---

Gary W. Cruickshank – BBO # 107600  
21 Custom House St., #920  
Boston, MA 02110  
Telephone: 617.330.1960  
[gwc@cruickshank-law.com](mailto:gwc@cruickshank-law.com)

Dated: June 9, 2017

**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MASSACHUSETTS  
EASTERN DIVISION**

In re:	)	
	)	
	)	
JAMES F. MCAULIFFE,	)	CHAPTER 7
	)	CASE NO. 16-11089-MSH
Debtor.	)	
	)	
	)	
JOHN O. DESMOND, CHAPTER 7	)	
TRUSTEE FOR THE ESTATE OF	)	
JAMES F. MCAULIFFE	)	
	)	
Plaintiff,	)	ADVERSARY PROCEEDING
	)	
v.	)	NO. 16-01164-MSH
	)	
ROBIN S. GILBERT,	)	
	)	
Defendant.	)	
	)	

**CERTIFICATE OF SERVICE**

I, Anthony R. Leone, of Murtha Cullina LLP, do hereby certify that on the 9th day of June, 2017, I served a copy of the within ***Joint Motion to Extend Summary Judgment Deadline*** through the ECF system to registered participants.

/s/Anthony R. Leone  
Anthony R. Leone